

REMARKS:

I. Introduction

In the Office Action mailed on July 27, 2005, the Examiner rejected claims 1 to 20. The present amendment cancels claims 13 and 14, amends claims 1 to 3, 6, 12, 15, 17, and 19, and adds new claims 21 and 22. Accordingly, claims 1 to 12 and 15 to 22 are now pending in this application.

II Claim Rejections Based on 35 U.S.C. § 112

The Examiner rejected claims 13 and 14 under 35. U.S.C. 112, second paragraph, as being indefinite. Claims 13 and 14 have been cancelled without prejudice as to later claiming the subject matter therein. Reconsideration and withdrawal of the objection is requested.

III. Claim Rejections Based on 35 U.S.C. § 102

(a) The Examiner rejected claims 1 to 20 under 35. U.S.C. 102(e) as anticipated by Wakefield (US 6,561,489). The examiner stated that "Wakefield discloses, among other things, a carrier, a winch, a monitoring device adjacent the winch and a control module."

Wakefield discloses a powered winch drive system for a motor vehicle. A motor (4) raises and lowers a spare tire (18) when a switch is activated when a keyed switch (3) is activated. Immediately upon release of the switch (3), the motor (4) is halted. The spare tire (18) contacts a limit switch (6) when the spare tire (18) is fully raised to a storage position and an alert (9) is broadcast to the operator whenever contact between the spare tire (18) and a limit switch (6) has been breeched so that the operator knows to fully raise the spare tire (18) before operating the motor vehicle.

Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitations of "a monitoring device adjacent the winch and providing a signal indicating when the carrier is in the stowed position" and "a control module operably connected to the monitoring device and receiving the signal so that the control module automatically stops the motor when the carrier reaches the stowed position." The apparatus disclosed by Wakefield stops when the operator releases the switch regardless of the position of the spare tire. The operator must continue to actuate the switch until the tire is in the stowed position

and then release the switch to stop the motor once the limit switch contacted to set off the alarm. If the operator fails to release the switch, the assembly could be damaged. No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 1. Reconsideration and withdrawal of the rejection is requested.

Independent claim 9, and claims dependent therefrom, are allowable because they each include the limitations of "a monitoring device adjacent the flexible member to measure tension in the flexible member when the tire carrier is raised from the first position to the second position" and "wherein the control module is programmed to prevent further movement of the carrier toward the second position when the tension force level in the flexible member exceeds a predetermined tension level." The apparatus disclosed by Wakefield utilizes a limit switch to set off an alarm (light) to indicate when the tire is in the fully stowed condition. Nothing is disclosed or suggested about monitoring tension in the flexible member. No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 9. Reconsideration and withdrawal of the rejection is requested.

Independent claim 12, and claims dependent therefrom, are allowable because they each include the limitations of "wherein the monitoring device includes at least one of a tension monitoring device providing signal indicating a tension force level of the flexible member, a force switch providing a signal indicating an engagement force level of the spare tire, a hall effect sensor providing a signal indicating a deployed length of the flexible member, a hall effect device providing a signal indicating a deployed length of the flexible member, a stress monitoring device providing signal indicating a tension force level of the flexible member, and a pressure sensor providing a signal indicating an engagement force level of the spare tire." The apparatus disclosed by Wakefield utilizes a limit switch to set off an alarm (light) to indicate when the tire is in the fully stowed condition. The limit switch provides a signal as to whether the spare tire is in one location or not (the full storage position). Nothing is disclosed or suggested about utilizing the claimed devices for measuring certain conditions. No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 12. Reconsideration and withdrawal of the rejection is requested.

Independent claim 15, and claims dependent therefrom, are allowable because they

each include the limitations of “monitoring a current condition including at least one of a tension force level in the flexible member, a stress level in a member supporting the tire carrier, an engagement force level of the spare tire, and a deployed length of the flexible member” and “discontinuing the raising step when the current condition corresponds to a predetermined level.” The apparatus disclosed by Wakefield utilizes a limit switch to set off an alarm (light) to indicate when the tire is in the fully stowed condition. The limit switch provides a signal as to whether the spare tire is in one location or not (the full storage position). Nothing is disclosed or suggested about monitoring the claimed conditions. No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 15. Reconsideration and withdrawal of the rejection is requested.

Independent claim 17, and claims dependent therefrom, are allowable because they each include the limitations of “measuring a current condition including one of a tension force level in the flexible member, a stress level in a member supporting the tire carrier, an engagement force level of the spare tire, and a deployed length of the flexible member” and “monitoring the current condition in order to control movement of the tire carrier from the deployed position toward the stowed position.” The apparatus disclosed by Wakefield utilizes a limit switch to set off an alarm (light) to indicate when the tire is in the fully stowed condition. Nothing is disclosed or suggested about monitoring the claimed conditions. No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 17. Reconsideration and withdrawal of the rejection is requested.

Independent claim 22, and claims dependent therefrom, are allowable because they each include the limitations of “a monitoring device adjacent the winch and providing a signal indicating when the carrier is in the stowed position” and “a control module operably connected to the monitoring device and monitoring the signal so that the control module automatically activates the motor to raise the carrier back to the stowed position when the signal indicates the carrier is undesirably out of the stowed position.” The apparatus disclosed by Wakefield has a limit switch that set off an alarm when the spare tire is not in the storage condition. In order to return the spare tire to the storage position, the operator must activate the motor winch or manual winch in order to move the spare tire to the storage position and stop the alarm. No prior art of record reasonably discloses or suggests the present invention as defined by independent

claim 22. Reconsideration and withdrawal of the rejection is requested.

IV. CONCLUSION

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. M. Mescher', is written over a horizontal line.

Richard M. Mescher
Reg. No. 38,242

PORTER, WRIGHT, MORRIS & ARTHUR LLP
41 South High Street
Columbus, Ohio 43215
(614) 227-2026
Fax: (614) 227-2100

October 27, 2005